

This record is a partial extract of the original cable. The full text of the original cable is not available.

UNCLAS WARSAW 000563

SIPDIS

SENSITIVE BUT UNCLASSIFIED.

STATE FOR EUR/NCE/MSESSUMS
STATE PASS USTR FOR DONNELLY/ERRION
COMMERCE FOR 4232/ITA/MAC/EUR/OECA/MROGERS

E.O. 12958: N/A

TAGS: [ETRD](#) [KIPR](#) [PL](#)

SUBJECT: POLAND: Counterfeiting Poses Problem for U.S. Firm

LEVIS KNOCKOFFS AND SUPREME COURT DECISIONS

11. (U) In order to clarify issues related to Levi's Special 301 submission, Econoff met with Zbigniew Trendak, Brand Protection and Security Manager for Levi Strauss. Trendak reiterated the charges made in Levi's Special 301 brief, noting that prosecution of counterfeit cases has dropped 28 percent since the Polish Supreme Court ruling of May 2005. According to Levis representatives, this ruling concerned a case dealing with counterfeit coffee.

12. (U) The ruling of the Supreme Court centered on the Article 305 Section 1 of the Polish Industrial Property Law of 30 June 2000. At issue is whether the term "putting into circulation" would cover those selling counterfeit products, or only those who manufacture or import them. According to Levis attorneys, the Court endorsed a narrow interpretation of law, limiting prosecution to manufacturers and importers only. Trendak said that most of the counterfeit jeans being sold in Poland come from Turkey and China, making prosecution here of manufacturers a nonstarter. He also said that the ruling has resulted in a "cascade effect," with District Courts and prosecutors declining to follow up on cases brought by the industry involving simple sales and distribution of counterfeit goods.

13. (SBU) According to correspondence between Levis and Procter and Gamble in Moscow in October last year, affected companies (NOTE: Trendak noted Nike and Phillip Morris having similar problems) believe that the Supreme Court ruling conflicts with EU law. At this time, however, no firm action has apparently taken place to address the issue in Brussels.

COMMENT

14. (SBU) Unaffected by this ruling - so far - are optical disc (OD) manufacturers. Sources at the Union of Audio Video Manufacturers (ZPAV) told Econoff that they believe the ruling is narrower than Levis attorneys indicate, but that in any event strengthened copyright legislation and enforcement measures give OD manufacturers greater protection than trademarks. We have discussed this issue with our LEGATT colleagues here at the Embassy as well, and will follow up with contacts at the Ministry of Justice to gain a more fulsome understanding of the nature and scope of the May 2005 ruling.

ASHE